

Minimum Wage Act.¹ As a direct consequence of Defendant's unlawful actions, Plaintiff seeks damages as set forth herein.

JURISDICTION AND VENUE

2. This Court has original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) because it arises under the laws of the United States and seeks redress for violations of federal laws.

3. This Court may properly maintain personal jurisdiction over Defendants because their contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendants to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945) and its progeny.

4. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this district because Defendants are deemed to reside where they are subjected to personal jurisdiction, rendering Defendants residents of the Eastern District of Pennsylvania.

5. Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") and also dual-filed said charge with the Pennsylvania Human Relations Commission ("PHRC"). Plaintiff has properly exhausted her administrative proceedings before initiating this action by timely filing and dual-filing his Charge with the EEOC and the PHRC, and by filing the instant lawsuit within 90 days of receiving a right-to-sue letter from the EEOC.

¹ Plaintiff will move to amend her instant lawsuit to include claims under the PHRA and the PFPO once her administrative remedies are fully exhausted with the appropriate administrative agencies. Any claims under the PHRA/PFPO though would mirror the instant Title VII claims identically, but will also include claims against Defendant Obaseime.

PARTIES

5. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

6. Plaintiff is a black, American female.

7. Defendant Progressive Health Inc. is an entity engaging primarily in the business of providing in-home care for elderly or infirmed individuals in several counties throughout Pennsylvania, with headquarters located at the address set forth in the above-caption.

8. Upon information and belief, Defendant Obaseime owns and operates Defendant Progressive Health Inc. and is a high-level manager and decision maker concerning terms and conditions of employment for employees such as Plaintiff, including but not limited to compensation/payment of wages for work performed.

9. At all times relevant herein, Defendants acted by and through its agents, servants, and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendants.

FACTUAL BACKGROUND

10. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

11. Plaintiff was hired by Defendants on or about November 2, 2018.

12. Throughout her employment, Plaintiff was a dedicated and hardworking employee, working not only as a full-time Office Manager, but also working an additional approximate 60 hours per week as a Home Care Worker.

13. Plaintiff worked out of Defendants' Cottman, Philadelphia, PA, location and was supervised by Defendants' Owners, Defendant Obaseime and Karen Ejorh, who are African.

14. Unfortunately, throughout Plaintiff's employment, she was subjected to an extremely discriminatory environment within Defendants.

15. Specifically, Defendant Obaseime and Ejorh are very pro-African and very anti-American, and as a result subjected Plaintiff and others to numerous derogatory comments about Americans in general, as well as black Americans specifically.

16. By way of example,² Plaintiff and other black Americans were consistently 1) referred to as lazy blacks, 2) described as having no work ethic because they are from America, 3) told black Americans are not spiritual enough, and 4) called stupid in reference to being black Americans.

17. As a result of the discriminatory comments that she was subjected to throughout her employment, increasingly in the months leading to her separation, Plaintiff complained several times to Defendants' management, including to Defendant Obaseime, specifically objecting to any further national origin comments or discrimination, and expressly stating that she was highly offended by the same.

18. Shortly thereafter, on or about September 2, 2020, in close proximity to her most recent complaints of discrimination, Plaintiff was abruptly terminated by Defendants, including Obaseime, who had suddenly begun to hurl numerous false accusations at her, including that she had purportedly committed numerous billing errors and distracted other employees from completing their work.

19. After ultimately instructing Plaintiff to go home, requiring her to turn in her office keys, refusing to provide Plaintiff with any date to return to work, and locking Plaintiff out of

² This list is not intended to be an exhaustive list, but is provided solely for illustration purposes.

Defendants' operating system, Defendant Obaseime further approached employees explaining that he had terminated Plaintiff for reasons other than those suddenly addressed with her, including stealing inventory from Defendants, lying, not doing her job, and for gossiping in the office.

20. Each of the accusations unexpectedly made toward Plaintiff and as alleged by Obaseime for Plaintiff's termination, however, are entirely pretextual, as:

- a. Each alleged reason is patently false and/or were properly attributed to individuals other than Plaintiff who were not similarly subjected to similar disciplinary action;
- b. Plaintiff had never received any disciplinary action, been warned, or reprimanded by Defendants for any of the reasons alleged;
- c. Upon information and belief, no investigation was ever performed by Defendants in allegedly terminating Plaintiff for such reasons; and
- d. Defendants have provided numerous different alleged reasons for terminating Plaintiff, as identified above, as well as subsequently directly contradicting these alleged reasons for Plaintiff's termination by submitting to federal and state administrative agencies that Plaintiff was never actually terminated, but instead voluntarily resigned from her employment, which is also entirely and demonstrably false.

21. Therefore, Plaintiff believes and avers that she was terminated because of her race/national origin and/or in retaliation for making multiple complaints of race/national origin discrimination (the last of which was made in close proximity to her abrupt and pretextual termination).

22. Moreover, following Plaintiff's separation from employment, likely in further retaliation for Plaintiff's complaints of discrimination, Defendants also failed to properly pay Plaintiff overtime on her final paycheck.

23. Specifically, during her last full week of employment, Plaintiff worked approximately sixty (60) hours as a Home Care Worker.

24. Defendants cannot dispute that Plaintiff's position as a Home Care Worker was a non-exempt position under federal and state law, as it paid Plaintiff on an hourly basis and classified Plaintiff as nonexempt throughout her employment, often paying her overtime for such work.

25. Despite being well aware that Plaintiff had worked sixty (60) hours in this non-exempt position during the last week of her employment, as reflected by Plaintiff's final paystub, however, Defendants nevertheless paid her for sixty (60) hours at her *base rate* of \$13 per hour, without paying Plaintiff at a rate of time and a half for each hour she worked over 40, as required.

26. Therefore, Defendants failed to properly pay Plaintiff overtime during the final week of her employment, as required under federal and state law.

Count I
Violation of Title VII of the Civil Rights Act of 1964 ("Title VII")
(Race/National Origin Discrimination and Retaliation)
-Against Defendant Progressive Health Inc. Only-

27. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

28. Plaintiff was subjected to disparate and discriminatory treatment based on the numerous discriminatory comments made to her and other employees in her presence, which she complained about numerous times in the months and weeks leading up to her termination.

29. In close proximity to making her last complaint of race/national origin discrimination to Defendants' management, Plaintiff was then terminated for entirely pretextual reasons, which Defendants have contradicted numerous times since.

30. Furthermore, following her separation from employment, Defendants intentionally withheld overtime payments from Plaintiff, as outlined above.

31. Plaintiff therefore believes that she was terminated and not paid overtime because of her race/national origin and/or because of her complaints of race/national origin discrimination.

32. These actions as aforesaid constitute unlawful discrimination and retaliation under Title VII.

Count II
Violations of the Fair Labor Standards Act ("FLSA")
(Failure to Pay Overtime)
- Against Both Defendants -

33. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

34. Defendants meet all criteria to be an employer or enterprise, collectively or individually, under the FLSA.

35. Plaintiff was not properly paid for all owed overtime as explained *supra*. Such actions constitute indefensible violations of the FLSA.

Count III
Violations of the Pennsylvania Minimum Wage Act ("PMWA")
(Failure to Pay Overtime Compensation)
- Against Both Defendants -

36. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

37. Defendants meet all criteria to be an employer or enterprise, collectively or individually, under the PMWA.

38. Plaintiff was not properly paid for all owed overtime as explained *supra*. Such actions constitute indefensible violations of the PMWA.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

A. Defendants are to be prohibited from continuing to maintain their illegal policies, practices, or customs of retaliating against employees and are to be ordered to promulgate effective policies against discriminating and retaliating against employees, and committing overtime and wage violations;

B. Defendants are to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendants' illegal actions, including but not limited to back pay, front pay, bonuses and medical and other benefits. Plaintiff should be accorded those benefits illegally withheld from the date she first suffered discrimination/retaliation at the hands of Defendants until the date of verdict;

C. Plaintiff is to be awarded punitive damages as permitted by applicable law in an amount believed by the Court or trier of fact to be appropriate to punish Defendants for their willful, deliberate, malicious and outrageous conduct, and to deter Defendants from engaging in such misconduct in the future;

D. Plaintiff is to be awarded liquidated and/or punitive damages as permitted by applicable law;

E. Plaintiff is to be accorded any and all other equitable and legal relief as the Court deems just, proper, and appropriate (including but not limited to emotional distress/pain and suffering damages - where permitted under applicable law(s)).

F. Plaintiff is to be awarded the costs and expenses of this action and reasonable legal fees as provided by applicable federal and state law;

G. Any verdict in favor of Plaintiff is to be molded by the Court to maximize the financial recovery available to Plaintiff in light of the caps on certain damages set forth in applicable federal law; and

H. Plaintiff's claims are to receive a trial by jury to the extent allowed by applicable law. Plaintiff has also endorsed this demand on the caption of this Complaint in accordance with Federal Rule of Civil Procedure 38(b).

Respectfully submitted,

KARPF, KARPF & CERUTTI, P.C.

By: 

Ari R. Karpf, Esquire
3331 Street Road
Two Greenwood Square
Suite 128
Bensalem, PA 19020
(215) 639-0801

Dated: March 24, 2021

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Katrice Woods

CIVIL ACTION

v.

Progressive Health Inc., et al.

NO.

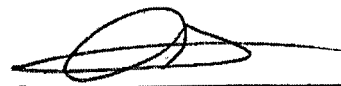
In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

3/25/2021

Date



Attorney-at-law

Plaintiff

Attorney for

(215) 639-0801

Telephone

(215) 639-4970

FAX Number

akarpf@karpf-law.com

E-Mail Address

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 57 E. Hortter Street, Philadelphia, PA 19119

Address of Defendant: 525 West Chester Pike, Suite 311A, Havertown, PA 19083

Place of Accident, Incident or Transaction: Defendants place of business

RELATED CASE, IF ANY:

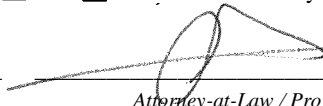
Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 3/25/2021


Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | 1. Indemnity Contract, Marine Contract, and All Other Contracts |
| <input type="checkbox"/> | 2. FELA |
| <input type="checkbox"/> | 3. Jones Act-Personal Injury |
| <input type="checkbox"/> | 4. Antitrust |
| <input type="checkbox"/> | 5. Patent |
| <input type="checkbox"/> | 6. Labor-Management Relations |
| <input checked="" type="checkbox"/> | 7. Civil Rights |
| <input type="checkbox"/> | 8. Habeas Corpus |
| <input type="checkbox"/> | 9. Securities Act(s) Cases |
| <input type="checkbox"/> | 10. Social Security Review Cases |
| <input type="checkbox"/> | 11. All other Federal Question Cases |
- (Please specify): _____

B. Diversity Jurisdiction Cases:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | 1. Insurance Contract and Other Contracts |
| <input type="checkbox"/> | 2. Airplane Personal Injury |
| <input type="checkbox"/> | 3. Assault, Defamation |
| <input type="checkbox"/> | 4. Marine Personal Injury |
| <input type="checkbox"/> | 5. Motor Vehicle Personal Injury |
| <input type="checkbox"/> | 6. Other Personal Injury (Please specify): _____ |
| <input type="checkbox"/> | 7. Products Liability |
| <input type="checkbox"/> | 8. Products Liability – Asbestos |
| <input type="checkbox"/> | 9. All other Diversity Cases |
- (Please specify): _____

ARBITRATION CERTIFICATION

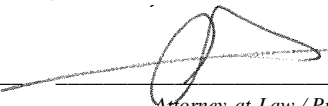
(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Ari R. Karpf, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 3/25/2021


Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

